

REMARKS

Claims 1-18 were filed and are pending in the application. Claims 1-2, 4-13, and 15-18 are rejected. Claims 3 and 14 are objected to as allowable if amended to incorporate the limitations of claims upon which they depend.

Rejections Under 35 USC §103

The Examiner rejected:

- Independent claims 1, 2 and 4, and dependent claims 5, 11-13, 15, and 18 under 35 USC §103(a) as unpatentable over US Patent 4,237,901 (Taenzer) in view of US Patent 5,951,477 (Ragauskas *et al.* '477).
- Dependent claims 6-10, 16 and 17 under 35 USC §103(a) as obvious over Taenzer and Ragauskas *et al.* '477 as applied to claim 4, in view of US Patent 5,388,583 (Ragauskas *et al.* '583) or US Patent 6,328,694 (Michaeli).

Thus, in each case, the Examiner's position relies for proof upon the teaching of Taenzer. The Examiner's position is that Taenzer teaches "an ultrasound transducer dynamically coupled to a patient" as stated in paragraph 3 on page 2 of the Detailed Action.

However, Taenzer does not actually teach or suggest a process or method including dynamic coupling of at least one ultrasonic transmitter/receiver to a skull, or to at least one opening in a skull, as each of the independent claims explicitly requires. At best, Taenzer teaches "a passive pressure compensation section 26" (column 4, line 68 to column 5, line 1) whose sole disclosed purpose is to achieve "pressure stabilization ... [without] any external or active pressure regulating components." (Column 6, lines 25-28). The entire tenor of the teaching is that of a device that is internally self-regulating, thus "holding the contact pressure substantially constant irrespective of the spatial orientation of the probe assembly." (Column 3, lines 28-30). In this regard, Taenzer is no different than Ragauskas *et al.* '583, which similarly teaches a system for only holding transducers "in a stable position" (*see* Amendment of October 7, 2002 filed in response to Office Action of June 5, 2002). This is not dynamic

coupling as relied upon by the claimed invention (*see*, generally, pages 10-11 of the specification).

Thus, a *prima facie* case for obviousness has not been made, as an element of every independent claim has not been shown to be in the prior art. Furthermore, there is no suggestion in the prior art (cited or otherwise) that one of ordinary skill would be motivated to modify the operating principle of the Taenzer teaching from a passive pressure compensation system to one of dynamic coupling as taught by the claimed invention. Certainly none of the selections of any of the secondary references cited by the Examiner provides any such teaching or motivation. Nor is there any reason to expect such a fundamental change in the operating principle of the Taenzer teaching would lead to success, as also required to support an obviousness rejection under 35 USC §103(a). In fact, any such modification would be directly opposite to the explicit teaching of Taenzer, a strong indicator of non-obviousness.

Finally, note that Michaeli is prior art under 35 USC §102(e) as of only May 26, 2000, which is after the filing date to which this application is entitled by priority to the provisional application filed November 10, 1999. Thus, the rejections based in part on Michaeli should be withdrawn for that reason alone.

Therefore, all claims should be allowed. If you have any questions, please contact me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter Forrest', with a large, stylized initial 'P'.

Peter Forrest
Registration No. 33,235

April 4, 2005